

EXHIBIT 12

1 IN THE SUPERIOR COURTS OF THE STATE OF CALIFORNIA

2 IN AND FOR THE COUNTY OF SAN MATEO

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4
5 SIX4THREE, LLC,

CERTIFIED TRANSCRIPT

6 PLAINTIFFS,

7 VS.

CASE NO. CIV533328

8 FACEBOOK, INC., ET AL.,

9 DEFENDANTS.

10 _____/

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12 REPORTER'S TRANSCRIPT OF PROCEEDINGS

13 BEFORE: HONORABLE V. RAYMOND SWOPE, JUDGE

14 DEPARTMENT 23

15 MARCH 15, 2019

16 A P P E A R A N C E S

17 FOR THE PLAINTIFFS:

18 STUART G. GROSS DAVID S. GODKIN (VIA COURTCALL)
ATTORNEY AT LAW ATTORNEY AT LAW

19 JAMES A. MURPHY
ATTORNEY AT LAW

20 FOR THE DEFENDANTS:

21 JOSH H. LERNER LAURA E. MILLER CATHERINE Y. KIM
ATTORNEY AT LAW ATTORNEY AT LAW ATTORNEY AT LAW

22 SONAL N. MEHTA NATALIE NAGLE ZACHARY ABRAHMSON
23 ATTORNEY AT LAW ATTORNEY AT LAW ATTORNEY AT LAW

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26 REPORTED BY: GERALDINE VANDEVELD, C.S.R. 8634

1 POINTS, YOUR HONOR. THE FIRST ONE IS WHAT WE JUST HEARD FROM
2 MR. RUSSO IS PRECISELY THE SAME SORT OF GRANDSTANDING AND
3 ATTACK -- OR APPROACH TO COMPLETELY COLLATERAL MATTERS BECAUSE
4 THEY MAY BE INTERESTING TO THE PRESS AND THEY MAY MAKE
5 HEADLINES, BUT THEY HAVE NOTHING TO DO WITH THIS CASE.

6 THE COURT: HOLD YOUR THOUGHT FOR A MOMENT, BUT IT
7 OCCURS TO ME. AND I MAY HAVE A TREMENDOUS GRASP OF THE
8 OBVIOUS. BUT HOW CAN ANY CORPORATION COUNSEL. I MEAN
9 EVERYONE IN THE ROOM. HOW CAN ANY CORPORATION HAVE CONFIDENCE
10 TO ENTER INTO A STIPULATED PROTECTIVE ORDER FOR THE PURPOSES
11 OF THE LITIGATION THAT THAT CONFIDENTIAL OR HIGHLY
12 CONFIDENTIAL INFORMATION WILL NOT BE BROADCAST TO THOSE
13 OUTSIDE THE LAWSUIT?

14 HOW CAN ANYONE HAVE ANY CONFIDENCE IN A STIPULATED
15 PROTECTIVE ORDER? EVERYONE HAS ENTERED THEM. I SIGN THEM ALL
16 THE TIME. AND THIS CASE HAS BEEN POPPING UP IN THE BACK OF MY
17 MIND AS I SIGN THESE STIPULATED PROTECTIVE ORDERS IN MY
18 SIGNING RESPONSIBILITIES AS A CIVIL JUDGE IN THIS COURT.

19 I'M THINKING THESE PEOPLE MAY HAVE CONFIDENCE THAT
20 THE INFORMATION THAT THEY HAVE IS NOT GOING TO BE EXPOSED.
21 THEY'VE SIGNED IT. AND I'M HOPING THAT THEIR INTENT IS TO
22 KEEP EVERYTHING CONFIDENTIAL OR HIGHLY CONFIDENTIAL, AS IT
23 WERE.

24 THIS COMPROMISES THE ENTIRE INTEGRITY OF STIPULATED
25 PROTECTIVE ORDERS AND BY EXTENSION TO AMERICAN JURISPRUDENCE.
26 ONE OF THE TENETS IS KEEPING CONFIDENCES OF A CLIENT

1 INVIOLEATE, BUT THE OTHER IS HAVING AN UNDERSTANDING THAT
2 COUNSEL SHALL KEEP THINGS CONFIDENTIAL AND BEHAVE IN A MANNER
3 THAT IS APPROPRIATE UNDER THE RULES OF THE PROFESSIONAL
4 RESPONSIBILITY.

5 YOU KNOW, BENJAMIN CARDOZA ONCE SAID, "MEMBERSHIP IN
6 THE PREVENTION IS A PRIVILEGE BASED UPON CONDITIONS. WE ENTER
7 INTO THIS FELLOWSHIP OF LAW FOR SOMETHING MORE THAN PERSONAL
8 GAIN. IT IS TO ACHIEVE THE SYSTEM OF JUSTICE."

9 THAT IS SOMETHING THAT CARDOZA SAID. AND THE COURT
10 HAD SAID IN IN RE SNYDER BACK IN 1985, 1986. THE FEDERAL
11 COURT. I THINK IT WAS THE SUPREME COURT ON A CONFIDENTIAL
12 ISSUE OR A PROFESSIONAL RESPONSIBILITY ISSUE. I'M NOT SEEING
13 THAT HERE TODAY. I'M NOT SEEING THE REVERENCE THAT THERE IS
14 TO THE RULE OF LAW TODAY. WHAT I'M SEEING IS A COMPROMISE OF
15 THE INTEGRITY OF OUR LITIGATION SYSTEM. OUR SYSTEM OF
16 JUSTICE.

17 IF LAWYERS CANNOT RELY UPON THE AGREEMENT BY ANOTHER
18 LAWYER TO KEEP THINGS CONFIDENTIAL PURSUANT TO A STIPULATED
19 PROTECTIVE ORDER, THEN WE'VE ALL LOST. THE PRINCIPLES OF
20 CONFIDENTIALITY AND STIPULATED PROTECTIVE ORDERS GO BEYOND
21 THIS CASE. AND I WILL LEAVE IT AT THAT AS A RESULT WITH
22 REGARD TO STIPULATED PROTECTIVE ORDERS.

23 AS I SAID ON WEDNESDAY ON THE MOTION TO WITHDRAW,
24 THIS CASE IS UNPRECEDENTED. THIS CASE IS A MATTER OF FIRST
25 IMPRESSION TO THE COURT. THERE ARE NO CASES THAT HAVE
26 SUMMARIES OF FACT PATTERNS LIKE THIS ONE. REGARDLESS OF HOW

1 PEOPLE FEEL ABOUT FACEBOOK. AND THIS COURT HAS NO OPINION
2 ABOUT THIS CORPORATION AT ALL.

3 ALL I'M SAYING IS A CORPORATION THAT SIGNED AN
4 AGREEMENT TO KEEP THINGS THAT ARE HIGHLY CONFIDENTIAL AND
5 CONFIDENTIAL IN PLACE UNTIL FURTHER ORDER OF THE COURT OR SOME
6 PROVISION OF THAT CONFIDENTIALITY AGREEMENT IS TRIGGERED.

7 SO THAT PRESENTATION THAT YOU MADE ABOUT FACEBOOK,
8 MR. RUSSO, IS EXHIBIT A FOR WHY YOUR CLIENTS DID WHAT THEY
9 DID. THIS IS THEIR MOTIVATION FOR WHAT I HAVE READ AND
10 REASONABLE MINDS MAY DIFFER, BUT I THINK BY AT LEAST A
11 PREPONDERANCE OF THE EVIDENCE AND MAYBE IN MY OPINION IT'S
12 CLEAR AND CONVINCING THAT THAT MAY HAVE BEEN THE MOTIVATION TO
13 DISCLOSE THAT INFORMATION. OTHERWISE, NO ONE WOULD BE SENDING
14 EMAILS THAT CAPTURE THAT PARTICULAR THOUGHT.

15 MS. MEHTA, YOU HAD A COMMENT TO MAKE?

16 MS. MEHTA: YES, YOUR HONOR. AND I DON'T WANT TO
17 BELABOR THE POINT. I DO WANT TO DIRECT TO YOU TWO SPECIFIC
18 PIECES OF EVIDENCE. I THINK THEY ARE GOING TO BE CRITICAL IN
19 ADDRESSING THE ARGUMENTS THAT WERE MADE BY THE OTHER SIDE.

20 THE FIRST ONE WAS THE SUGGESTION FROM MR. RUSSO THAT
21 IN FACT PEOPLE WERE CALLING HIS CLIENTS ASKING FOR
22 INFORMATION. THAT IS NOT TRUE. THE EMAILS FROM THE DCMS
23 DISCLOSURE AND THE OTHER 9,000 PAGES OF EMAILS THAT WE HAVE
24 SHOW THAT IT WAS MR. KRAMER, MR. SCARAMELLINO, MR. GODKIN AND
25 MR. GROSS THAT WERE ON A CAMPAIGN TO TRY TO GET MEDIA
26 ATTENTION. THE DCMS DISCUSSIONS STARTED BECAUSE MR. KRAMER